IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2912 OF 2006

Sanjay Rohidas Chavan & Ors. .. Applicants

Versus

State of Maharashtra .. Respondent

Ms.Revati Mohite-Dere for applicants

Ms.M.M.Deshmukh, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th September 2006.

P.C.

. Heard Ms.Dere for applicants and Ms.Deshmukh, A.P.P.

2. C.R.No.317 of 2006 is registered at Sahakarnagar police station offences alleged are punishable under sections 363, 364A, 368, 387 read with 34 I.P.C. Applicants preferred an application for being enlarged on bail after they were taken in custody but the learned 12th Ad-hoc Additional Sessions Judge rejected the same on 19th July 2006. On the last occasion when this matter was adjourned Ms.Dere sought leave to produce the order passed in Misc.Criminal Application No.1604 of 2006 pertaining to co-accused Jagannath, Pravin and Ajit Ganage.

3. She submits that the statement of the complainant recorded on 7th July 2006 specifically refers to the fact that his brother Kisan was missing and he received a phone call on his mobile from Ajit Ganage that he has kidnapped Kisan along with Pradip and Jagannath and they have taken him to Latur. The complainant was told to keep Rs.5 lakhs ready for release of his

brother. Therefore, he has approached the police station and lodged the F.I.R.

4. Sanjay Rohidas Chavan and others are not named in the statement of the brother. Thereafter, the statement of the kidnapped person Kisan is also recorded and in the said statement he has very clearly stated that Jagannath and his sons Ajit and Pravin have forcibly taken him to Latur, after putting him in the vehicle and have threatened the complainant to keep ready the sum as demanded for release of his kidnapped brother.

5. It is not disputed before me that in Criminal Misc.Application No.1604 of 2006, Jagannath Ganage and his sons have been granted anticipatory bail by the same Ad-hoc sessions Judge who has passed order on applicants' application for regular bail. It is rather surprising that the applicants were denied bail despite, learned Judge holding that their names

do not appear in the F.I.R. or the statement of the victim Kisan Rathod. Learned Judge was very well aware that the interim anticipatory bail was granted to Jagannath Ganage and his sons. However, because investigations are in progress and the part played by the applicants was yet to be probed, applicant's application for being enlarged on regular bail was dismissed as pre-mature.

6. In my view, once Jagannath Ganage and his sons being granted anticipatory bail and the statements of the victim as also that of his brother do not specifically naming applicants herein as being responsible for forcibly putting the victim Kisan in the car and taking him to Latur and demanding Rs.5 lakhs, the applicants deserve to be enlarged on bail.

7. Hence, the following order:-

i) The applicants (1) Sanjay Rohidas Chavan, (2) Ratan Vitthal Chavan, (3) Kapil Sangram Tambolkar and (4) Dyneshwar Shankar Dhonde arrested in connection with C.R.No.317 of 2006 registered with Sahakar Nagar Police Station, Pune shall be enlarged on bail subject to furnishing a personal bond of Rs.10,000 each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicants will remain present before the concerned investigating officer once in a fortnight till filing of charge sheet and thereafter to abide by the orders and directions of the trial court conclusion of the trial.

iii) The order of bail will be given

effect only after the applicants furnishe to the investigating officer the details about their place of residence and address where they proposes to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicants shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicants shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicants to delay the

trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)